

REMARKS

Reconsideration of this application is respectfully requested.

Claims 1, 6, 16, 20 and 25-33 are pending. Claims 1, 6, 16, 20 and 25-33 were rejected. The independent claims have been amended. Reconsideration and allowance of the claims is respectfully requested in view of the following remarks.

Claims 1, 6-16, 20, 25, 26 and 31 were rejected under 35 U.S.C. § 102(e) as being anticipated by Hu (U.S. Patent No. 6,173,322), and claims 27-33 were rejected under § 103 over Hu. These rejections are respectfully traversed. Applicant maintains and incorporates by reference all the remarks set forth in the amendment filed November 17, 2003 and May 10, 2004.

As a preliminary matter, Applicants note that extensive arguments supporting the allowability of claims 9-13 were presented in the amendment filed May 10, 2004, but these arguments appear to have not been given any consideration. Applicants clearly pointed out features of claims 9-13 which are neither expressly nor inherently contained in Hu. Therefore, Hu fails to disclose every element of claims 9-13, and these claims should be allowable for the reasons set forth previously, and repeated below.

The independent claims are amended to include the following features:

each web server being a computer program running within a host computer, the monitoring performed

and

[redirecting by that web server at least one browser request from that web server to another one of the web servers] , regardless of the availability of a separate interceptor process for redirecting requests (bracketed text present prior the amendment).

Support for these amendments is provided by FIG. 1 and in the paragraph bridging pages 26 and 27, respectively. No new matter is added.

Further, Applicants submit that these amendments are directed to subject matter that was covered by the Rule 131 Declaration filed on July 2, 2001. For example, Applicant indicated

that the embodiment described at pages 2 and 29 in Exhibit B of the Declaration was developed by or on behalf of the inventors before October 6, 1997. The figure on page 2 shows each web server as a computer program within a host computer. The first paragraph of Page 29 (definition of "Deactivated" state) describes a situation in which the interceptor is deactivated, and clients are redirected to a URL specified in the Application's properties. Therefore, Applicants submit that the amended claims are still entitled to the same date of invention as the claims that were previously presented.

Claim 1 recites,

"... each web server being a computer program running within a host computer, ...

if the predetermined condition does exist at one of the web servers, redirecting by that web server at least one browser request from that web server to another one of the web servers such that the browser requests the web page from the another one of the web servers, regardless of the availability of a separate interceptor process for redirecting requests." [Emphasis added]

Claim 1 requires that the claimed redirection is performed by the web server from which the browser request is redirected, where the web server is a computer program running within a host computer.

Claim 1 further requires that the web server is capable of redirecting a browser request regardless of the availability of a separate interceptor process for redirecting requests. Because the web server of claim 1 performs the redirecting, the web server could continue redirecting even if the interceptor "crashes" or is deactivated.

Hu neither discloses nor suggests these features. The Final Action and Advisory Action recite,

"For example request manager 102 which also can act as a content server receives request and redirects that request to another content server (the same content server 102 who receives the request is the one that redirects the request to another content server) (see col. 5, lines 3-8 and col. 12, lines 35-42)" [emphasis added]

However, this characterization of Hu is incorrect. Hu actually states:

"For instance, the computer which operates as the network request manager 102 may also act as a content server 106."

Assuming for sake of argument that Hu's request manager can be considered an interceptor, one of ordinary skill would understand that Hu indicates that a single computer capable of multiprocessing can include the request manager application (interceptor) and the content server application. But Hu's redirecting is still performed by the resource manager application, not the content server application. There is no suggestion anywhere in Hu that, in a multiprocessor system, these two functions are performed by a single application. Because Hu does not suggest that the content server application is itself capable of redirecting, Hu's system would not allow redirection to occur independently of whether a separate interceptor (request manager application) is available. In other words, because Hu teaches that a separate request manager application performs the redirecting, Hu's content server application is held captive to the availability of the resource manager application.

Therefore, one of ordinary skill would have understood that Hu does not indicate that Hu's content server application redirects a request from itself to another content server. Rather, one of ordinary skill would have understood Hu to indicate that the Resource manager application (a separate interceptor) redirects a request from a first content server to a second content server, where the resource manager and content server applications may reside on the same or different hosts.

Even in the case where Hu's resource manager application is hosted by the same computer as Hu's content server application, Hu's teaching would not be equivalent to "redirecting by that web server at least one browser request from that web server to another one of the web servers, regardless of the availability of a separate interceptor process for redirecting requests " as required by claim 1. If Hu's resource manager application crashes or fails for any reason, further client requests would not be redirected, regardless of whether Hu's resource manager is hosted by the same or different computer. Hu's system performs a substantially different way with a substantially different result.

In Hu's method, the claimed redirection is NOT performed by the web server from which the browser request is redirected, where each web server being a computer program running within a host computer, the monitoring performed. Hu's redirecting method has the redirect module 212 within the resource manager - not the web server as required by claim 1 - directly contact the client 104 to identify another one of the web servers. Thus, the Patent and Trademark Office can only construe Hu's web server to perform the redirecting if it is admitted that Hu fails to disclose or suggest another feature of claim 1, namely that each web server is a computer program running within a host computer. The Patent and Trademark Office would have to construe Hu's web server as being the computer which operates as the network request manager 102 and content server 106. Such a construction is contrary to the requirement of claim 1 that the web server is a computer program running within a host computer.

This is also explained by Hu at col. 12, lines 45-52, which recites.

“As described above, redirect module 212 responds to client 104 with whatever information is necessary according to the particular wide-area network 108 protocol for client 104 to contact content server G directly. In most cases the network address of the content server 106 is all that is required. Client 104 then contacts content server G directly with the client request and receives directly whatever response is provided.” [emphasis added]

Also note col. 15, lines 29-30, which states, “Redirect module 212 has no direct contact with the content servers 106 which it handles...” Because Hu's redirect module 212 has no direct contact with the content servers 106, Hu's redirect module cannot itself be one of the content servers from which a request is redirected to another content server. Thus, Hu teaches away from having a single application that acts as a web server and redirects requests from itself to another web server.

Even if the redirect module is considered to be performing redirecting, there are no requests redirected from the redirect module 212 to another content server 106. The requests would be redirected from a first content server 106 to another content server 106, with the redirection performed by a module 212 other than the first contents server 106. In other words,

Hu's module 212 does not redirect requests from itself, and the first web server 106 does not perform redirection. Thus, Hu fails to suggest the features of claim 1.

MPEP § 2131 recites:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). ... "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Hu fails to disclose or suggest "each web server being a computer program running within a host computer, the monitoring performed" and "redirecting by that web server at least one browser request from that web server to another one of the web servers, regardless of the availability of a separate interceptor process for redirecting requests" as required by claim 1. Therefore, Hu does not suggest every element of claim 1, and claim 1 is not anticipated by Hu. Therefore, the rejection of claim 1 over Hu should be withdrawn.

For similar reasons to those set forth above, and for the reasons set forth in the amendment of November 17, 2003, and the amendment of May 10, 2004, the remaining claims should all be allowed. All of the independent claims include the feature of redirecting by a web server at least one browser request from that web server to another one of the web servers.

In addition, other claims should be separately patentable.

For example, claims 9-13 are directed to specific redirection criteria. Claim 9 requires "the redirecting step comprises redirecting only if the request is for one of a predetermined set of web pages." Claim 10 requires, "the predetermined set is predetermined by a list of web pages included in the set." Claim 11 requires, "the predetermined set is predetermined by a list of web pages excluded from the set." Claim 12 requires, "the redirecting step comprises redirecting only if the request is for a web page that does not have state." Claim 13 requires, "determining whether the web page is included in a list web pages that have state; transferring only if the web page is not included in the list."

Hu fails to disclose or suggest any of the redirecting criteria required by claims 9-13. The Action rejects claims 9-13 and 16, stating that "Hu discloses a system, wherein the redirecting step comprises redirecting only if certain redirection criteria are met (see col. 12, lines 10-42)." However, the cited passage merely state the following criteria:

(1) "when connection module 208 determines that a direct connection between content server 106 and client 104 would result in significantly more efficient communication.

For example, client 104 and content server 106 may both be physically located within a few miles of each other on the East coast while network request manager 102 might be located on the West coast. It makes little sense in terms of transmission time efficiency for network request manager 102 to act as a proxy when a direct connection is possible. ..." and

(2) " redirecting all of certain types of client requests. For instance, all client requests for a network intensive interactive application might be redirected automatically "

The general concept of redirection criteria described by Hu and the two examples recited above all fail to disclose or suggest each of the specific redirection criteria of claims 9-13. With respect to criterion (1), Hu's criterion based on the relative physical distances between contact server and client, and between client and request manager, does not disclose or suggest a criterion based on specific web pages, inclusion in a set of web pages, or exclusion from a set of web pages. These criteria do not address the same problem, and provide different results.

With respect to criterion (2), Hu's criterion based on a type of client request does not suggest a criterion based on specific web pages, inclusion in a set of web pages, or exclusion from a set of web pages either. Applicants claimed criterion of redirecting based on request for specific web pages can result in redirecting a first request for a first web page, and not redirecting a second request for a second web page, even though the first and second requests are of the same type, and the first and second web pages are of the same type. Applicant's criterion allows a decision to redirect or not redirect based on a web page address. Hu's criterion (2), on the other hand, is limited to deciding whether to redirect based on the type, and would not be capable of redirecting some requests for a given type of web page, and not redirecting for another group of requests for the same type of web page.

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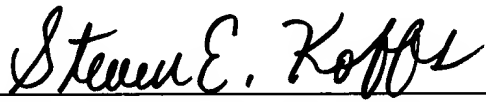
Thus, claims 9-13 cannot be anticipated by Hu. Claims 9-13 should be patentable independently of claim 1.

In view of the foregoing remarks, Applicant submits that this application is in condition for allowance. Early notification to that effect is respectfully requested.

The Assistant Commissioner for Patents is hereby authorized to charge any additional fees or credit any excess payment that may be associated with this communication to deposit account **04-1679**.

Respectfully submitted,

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